



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Mrs. Violet S. Greenhill, Chief  
Division of Child Welfare  
State Department of Public Welfare  
Austin, Texas

Dear Madam:

Opinion No. 0-2721

Re: Does the fact that a county has a Juvenile Board in any way affect a County Child Welfare Board Unit program, insofar as the county's financial participation is concerned, or insofar as the county unit organization set-up is involved?

Your recent request for an opinion of this department on the question as is herein stated has been received.

We quote from your letter as follows:

"We are in receipt of word from El Paso County that it is interested in establishing a County Child Welfare Unit and to participate with the State in undertaking such a program. This program would be in conformity with the Annual Plan as submitted to the Children's Bureau of the U.S. Department of Labor and which you approved on June 12, 1940, for the fiscal year ending June 30, 1941. The Attorney General's Office ruled on February 21, 1938 that counties could participate with the State Department in such projects. Therefore, we do not wish to raise this particular question again. We would like to have your opinion on the following question only.

"Does the fact that a county has a Juvenile Board in any way affect a County Child Welfare Board program, insofar as the County's financial participation is concerned, or insofar as the

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County Unit organizational set-up is involved? We, of course, understand that the County Child Welfare Board could not undertake functions of the Juvenile Board, or conflict with any jurisdiction it may have, as indicated in the Statutes on Juveniles Boards, which are Articles 5139-40-41-42-42a and 42b.

"It is probable that you will receive a request from Mr. Ernest Quinn, El Paso County Attorney, for an opinion within the next few days. If he requests this opinion, we would like to have a copy of your reply to him sent to us. If he does not request the opinion, we would like to have an answer to the above question as quickly as possible.

"Copy of the ruling from the Attorney General's office of 2-21-38, referred to above, is attached."

We have carefully examined Articles 5139-5142b, inclusive, Vernon's Annotated Civil Statutes, and all amendments thereto, pertaining to Juvenile Boards concerning their authority, rights, powers, duties, etc., in connection with Article 695c, Vernon's Annotated Civil Statutes, which is commonly referred to and cited as, "The Public Welfare Act of 1939."

Sections 4 and 5 of Article 695a, Vernon's Annotated Civil Statutes, read as follows:

"Sec. 4. The commissioners' court of any county may appoint in said county seven persons, resident therein, who shall serve without compensation and hold office during the pleasure of the commissioners' court, who shall constitute a Child Welfare Board for the County, which Child Welfare Board shall select its own chairman. The Child Welfare Board shall perform such duties as may be required of it by the said Commissioners' Court and Board of Control in furtherance of the

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purposes of this Act. The County Commissioners' Court of any county may remove any member of such County Welfare Board for just cause.

"Sec. 5. The Board of Control, through said County Welfare Board, shall work in conjunction with the County Commissioners' Court, Juvenile Boards, and all other officers and agencies whose purpose is for the protection of the children described herein, and the Board of Control is hereby authorized to use and allot any funds, that may be specifically appropriated for such purposes, by the Legislature, that may be necessary in jointly establishing and maintaining, together Juvenile Board or other County or City Board or other agency, homes, schools, and institutions for the care, protection, education and training of the class of children sought to be protected by the provisions hereof."

Section 42 of Article 695c, Vernon's Annotated Civil Statutes, provides:

"County Child Welfare Boards established or hereinafter appointed in conformity with Section 4, Act of 1931, Forty-second Legislature, Page 323, Chapter 194, shall continue to function as provided therein."

Under Article 695c, supra, all the rights, powers, and duties of the Division of Child Welfare of the State Board of Control was transferred to the State Department of Public Welfare.

After all the rights, powers and duties of the Division of Child Welfare of the State Board of Control was transferred to the State Department of Public Welfare, we are of the opinion that the State Department of Public Welfare is authorized by Section 5 of Article 695a, supra, to work in conjunction with the County Commissioners' Court, juvenile boards and all other officers and agencies whose purpose is for the protection of the children described.

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As above stated, after carefully examining all the statutes pertinent to the question here involved, we understand that a County Child Welfare Board cannot undertake the functions of a Juvenile Board or conflict with any jurisdiction it may have as indicated by the above mentioned statutes.

However, the rights, duties and powers of the above mentioned Juvenile Board and County Child Welfare Board are specifically set out by statute and the purpose of the various boards is to perform certain duties not imposed upon the other. We find no prohibition that would prevent a county having a Juvenile Board and also having a County Child Welfare Board as provided by the above mentioned statutes.

Therefore, you are respectfully advised that it is the opinion of this department that under the provisions of the above mentioned statutes, it is permissible for a county to have both a Juvenile Board and a County Child Welfare Board. Your question, as above stated, is respectfully answered in the negative.

Trusting that the foregoing fully answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*

Ardell Williams  
Assistant

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APPROVED SEP 23, 1940

*Garland B. Mann*

ATTORNEY GENERAL OF TEXAS

